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SUBJECT: CANADA - 2002 TRAFFICKING IN PERSONS REPORT

REF: STATE 22225

The following is Mission Canada's submission for the 2002-2003 Trafficking in Persons report. Answers are keyed to numbered paragraphs in reftel. Embassy POC is PolOff Craig Bryant, telephone (613) 688-5339, fax (613) 688-3098.

Paragraph 16. Overview of A Country's Activities to Eliminate Trafficking in Persons:

--A. Canada is a country of transit, destination and origin for the trafficking of men, women, and children. As a destination country, trafficking of persons who have arrived from other countries occurs within Canada's borders. Domestic trafficking of Canadian citizens or legal residents does not take place in significant numbers, but there have been cases of Canadian citizen minors trafficked to other parts of Canada (particularly urban centers such as Toronto, Montreal, and Vancouver) and to cities in the United States for exploitation in the sex trade. Trafficking does not occur in territory outside of the government's control.

Reliable numbers showing the extent of Canada's trafficking problem are not available. A November 2000 University of Toronto research paper published by Status of Women Canada (SWC), a government agency, estimated that 8,000 to 16,000 persons entered Canada each year as the result of trafficking, either to remain in Canada or in transit to the United States. Government and NGO sources have indicated this figure is no longer a reliable estimate, and that there is simply no hard data available on the number of persons trafficked in Canada. A January 2000 Government of Canada report on trafficking in women stated that information on trafficking in Canada is limited, and that satisfying data collection requirements presents a major challenge for the government.

Sources of available information range widely, including police reports, social workers, NGO's, research documents, federal agencies, press reports, hospital data, and more. Reliability of these sources also varies widely. Women seem to be trafficked more commonly than any other group, though children are sometimes trafficked for work in the sex or drug trades. Men are trafficked as indentured labor, but apparently not in significant numbers. The most frequently trafficked persons are from countries in eastern and southern Asia, eastern Europe, and Latin America.

--B. Trafficked persons most often come from East (especially China) and Southeast Asia (including Thailand, Cambodia, the Philippines) and eastern Europe (including Russia). Persons trafficked into Canada who do not remain here are most often trafficked to the United States.

--C. There does not appear to have been any change in the direction or extent of trafficking.

--D. There are no surveys planned or underway to document the extent and nature of trafficking in Canada. SWC published three reports in 2000 on different aspects of trafficking in Canada. After a new anti-trafficking law took effect in June 2002, the Royal Canadian Mounted Police began gathering information on a nation-wide basis on human trafficking activity.

--E. Conditions for trafficked persons are difficult. Many trafficking victims are forced by violence or intimidation into the sex trade, including some who are initially tricked into it. Forced labor outside of the sex trade is less common, though it does exist in slaughterhouses, sweatshops, farms, restaurants, and factories. Information on such forced labor is scarce. Persons trafficked into indentured or forced labor are subject to violence, threats, or intimidation to themselves, or to family members remaining in their countries of origin. Victims often have their passports or other identification documents confiscated by traffickers, which further restricts their ability to flee their oppressors. Victims have limited access to government assistance for a number of reasons: they may not speak English or French, they fear being jailed or deported, they are ashamed, or they are unaware assistance is available to them.

--F. Canada is not a country of origin for significant numbers of trafficked persons. Of those Canadian citizens or

legal residents who are trafficked, minors (mostly runaways or otherwise troubled youth) and aboriginal persons seem to be the main groups targeted.

--G. There is political will at the highest levels of the Canadian government to combat trafficking in persons. The government is making a good faith effort to address trafficking, as demonstrated by a new law that went into effect in 2002 making trafficking in persons illegal. Funding for social services was increased in the GOC's most recent budget. The GOC is devoting increased resources (personnel, funding, and focus) in areas such as border control and immigration that should have an impact on trafficking in persons.

--H. Governmental authorities or individual government employees do not facilitate, condone, and are not otherwise complicit in trafficking in persons.

--I. Funding for law enforcement has increased overall at the federal level, but trafficking in persons is not a law enforcement priority. Official corruption is not a problem. Government aid to victims has been limited due to a general lack of awareness of the existence or extent of trafficking, and lack of a specific anti-trafficking program. The principal factor hampering efforts to combat human trafficking is that it has not been a highly visible problem in Canada. Another factor hampering anti-trafficking efforts is that Canada's law enforcement jurisdiction is fragmented, involving various levels of governments and numerous departments and agencies. Federal law enforcement authorities cannot claim authority over provincial cases. Finally, Canada's strong tradition of respect for the rights and liberties of all persons, including non-citizens, limits the means (such as investigative detention) that law enforcement authorities might otherwise employ in trafficking investigations.

Paragraph 17. Prevention:

--A. The government acknowledges that trafficking is a problem.

--B. Status of Women Canada (SWC), Citizenship and Immigration Canada (CIC), Department of Foreign Affairs and International Trade (DFAIT), Human Resources Development Canada (HRDC), Justice Canada, the Royal Canadian Mounted Police (RCMP), and the Solicitor General Canada are the federal agencies involved in anti-trafficking efforts. Provincial and local law enforcement authorities, such as the Montreal Police Department and Toronto Police Department, are also involved.

--C. There are no current and there have been no previous anti-trafficking information or education campaigns, but the government has supported efforts by NGO's and community organizations to raise awareness of trafficking and has funded academic studies of the problem. A variety of organizations, including Canadian universities, serve as resource centers for trafficking information. The Center for Refugee Studies at York University in Toronto began research on global trafficking in women in 1998, and is currently working on a study of developed country "markets" for trafficked persons, with an emphasis on North America.

--D. Canada is a western, prosperous democratic country that strongly promotes women's participation in economic and political decision-making, as well as efforts to keep children in school.

--E. The GOC has implemented programs aimed directly or indirectly at preventing trafficking into Canada. For example, CIC deploys immigration control officers at strategic transit points throughout the world to deter the illicit transit of migrants to Canada. Canada recently adapted a "one person, one passport" policy, which, it believes, will help deter trafficking in children. Under Canada's previous policy, children could be included in the passports of adults and a photograph of the child was not required. Under the new policy all Canadian passports must include a photo of the holder, and children must have their own passports. The GOC also seeks to stop the spread of trafficking in developing countries by funding initiatives proposed by the Canadian International Development Agency (CIDA - equivalent to the U.S. Agency for International Development). (See 17-I below)

--F. The GOC supports NGO's, and other organizations and elements of civil society concerned with the issue of trafficking, by funding research projects and sponsoring conferences. SWC supports community-based action to address trafficking by providing funding for educational forums.

--G. The government adequately monitors the borders, but Canada is a large country with thousands of miles of coastline, and therefore surreptitious entry by migrants is difficult to prevent. There were two instances in recent

years when boats were discovered trying to smuggle trafficked persons from China into British Columbia. The movements of known immigrants into Canada are monitored by CIC through a databank.

--H. The GOC set up an interagency working group in 1998 initially for the purpose of consulting on the UN Convention on Transnational Organized Crime and related protocols (the Convention and two related protocols were ratified by Canada on May 14, 2002). This interagency group has now turned to some of the domestic issues and challenges in respect to trafficking in persons. The International Crime and Terrorism Division in DIFAIT's Global Affairs Bureau leads this group. Other agencies represented are SWC, CIC, DFAIT, HRDC, Justice Canada, the RCMP, and Solicitor General Canada. (See above, Paragraph 17-B.) The group assists in coordinating national efforts to combat trafficking in persons.

The federal government does not have a national anti-trafficking or public corruption task force. There have been several joint task forces of federal, provincial, and local authorities that have focused on trafficking rings in specific areas for a limited period of time. For example, Operation Trade in Toronto was a massive, multi-police force investigation of traffickers who had purchased young women in Thailand, transported them to Toronto, and forced them to work as sex slaves. In Montreal, the police force recently established a task force which focuses, in part, on the growing problem of juveniles being coerced into the sex trade.

--I. CIDA is providing funding for programs which seek to stop the sexual and labor exploitation of children in developing countries, including Mali, Burkina Faso, and Benin in Africa; Nicaragua and Peru in Latin America; and Haiti in the Caribbean. Through the South East Asian Fund for Institutional and Legal Development (SEAFILD), CIDA is supporting the Illegal Labour Movements: Trafficking in Women and Children project addressing trafficking in the Mekong delta area. SEAFILD also funds the Support for the Development of Protocols for Repatriation of Trafficked Women and Children Project, by the Coalition to Fight Against Child Exploitation (FACE) in Thailand, Cambodia, Laos, and Vietnam.

Other federal agencies provide funding to international organizations to assist in combating trafficking. CIC, for example, has provided funding to the International Organization for Migration (IOM) to assist in a case study on migrant trafficking originating in Nicaragua. DIFAIT's Human Security Program recently made a grant of C\$200,000 to a Latin American NGO, Casa Alianza, and IOM for assistance to Honduran street children at risk of falling victim to human traffickers. A portion of this grant will be used for the voluntary repatriation to Honduras of approximately 100 juveniles who had been transported to Canada by drug trafficking gangs and forced to work as street dealers.

--J. Canada does not have a national action plan to address trafficking in persons.

--K. The interagency working group on trafficking (see 17-H) is responsible for developing government anti-trafficking programs.

Paragraph 18. Investigation and Prosecution of Traffickers:

--A. The Immigration and Refugee Protection Act (Bill C-11) was passed by Parliament and signed into law by the Governor General in 2001. The Act entered into force June 11, 2002, when regulations to implement the Act were finalized. While there have been no prosecutions under C-11 to date, the significance of the bill is that, for the first time, a law is in place in Canada specifically prohibiting and punishing trafficking in persons. In Part 3, under the main heading Enforcement, Paragraphs 118 and 119 state:

118. (1) No person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.

118. (2) For the purpose of subsection (1), "organize", with respect to persons, includes their recruitment or transportation and, after their entry into Canada, the receipt or harbouring of those persons.

119. A person shall not disembark a person or group of persons at sea for the purpose of inducing, aiding or abetting them to come into Canada in contravention of this Act.

--B. The potential penalties for trafficking in persons are set out in Paragraphs 120 and 121 of the Act. They state:

120. A person who contravenes section 118 or 119 is guilty of an offence and liable on conviction by way of indictment to a fine of not more than \$1,000,000 or to life imprisonment, or to both.

121. (1) The court in determining the penalty to be imposed under subsection 117 (2) or (3) or section 120, shall

take into account whether (a) grievous bodily harm or death occurred during the commission of the offence; (b) the commission of the offence was for the benefit of, at the direction of or in association with a criminal organization; (c) the commission of the offence was for profit, whether or not any profit was realized; and (d) a person was subjected to humiliating or degrading treatment, including with respect to work or health conditions or sexual exploitation as a result of the commission of the offence.

--C. The penalty for sexual assault is up to 10 years imprisonment. The penalty for sexual assault using a weapon, threats against a third person, or when bodily harm results is up to 14 years imprisonment. The penalty for aggravated sexual assault is up to life imprisonment.

--D. No cases have been prosecuted under the new anti-trafficking provisions in the short period since they took effect. The government has prosecuted and even convicted a few human traffickers and smugglers for related offenses, but penalties imposed have been minimal. For example, in a Toronto prosecution brought as part of the Operation Trade investigation, a judge sentenced the person described as the mastermind of a sex slave operation to less than two years of house arrest. This situation is likely to change as law enforcement officers and prosecutors become more knowledgeable about investigating and prosecuting cases under the new anti-trafficking law.

--E. Reports show that traffickers operate at all levels - as freelancers, in small crime groups, and as part of large international organized crime syndicates. Marriage brokers sometimes serve as a front for traffickers. Government officials are not involved in trafficking.

--F. The government actively uses modern anti-crime methods to investigate cases of trafficking, but until now there has not been a sustained focus on preventing or prosecuting trafficking in persons. After the new anti-trafficking law took effect, the RCMP began collecting and analyzing data on trafficking on a nation-wide basis.

--G. In the past the government has not provided specialized training for government officials in the investigation and prosecution of trafficking, but with the implementation of the new anti-trafficking law it now plans to provide such training.

--H. The GOC cooperates with other governments in investigating and prosecuting trafficking, though on an ad hoc basis. Canadian and U.S. law enforcement authorities have cooperated on cases in the past, including a 1998 investigation into smuggling from China through Toronto and on to New York City that resulted in the arrest of 11 people in Canada and 30 in the U.S.

--I. The GOC has rarely (if ever) extradited human traffickers to other countries because Canada did not have a law against trafficking in humans. With the implementation of the new anti-trafficking law, Canada will be better able to extradite traffickers.

--J. There is no evidence of government involvement in or tolerance of trafficking at any level.

--K. N/A

--L. Canada ratified ILO Convention 182 in 2000. Canada signed the Sale of Children Protocol supplementing the Rights of the Child Convention in 2001. In 2002, Canada ratified the Convention on Transnational Organized Crime, as well as the Optional Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; and the Optional Protocol against the Smuggling of Migrants by Land, Sea, and Air.

Paragraph 19. Protection and Assistance to Victims:

--A. There are a number of programs and services in Canada that can assist trafficking victims, even though they are not specifically aimed at such victims. These include health care, legal service, and other social services. Trafficking victims are eligible to apply for permanent residence status in Canada under humanitarian/compassionate provisions of Canadian immigration law. In addition, trafficking victims can make claims for Convention refugee status. The Canadian Immigration and Refugee Board introduced Gender-Related Persecution Guidelines in 1993 that may be relevant to some trafficking cases. The new Immigration Act (Bill C-11) states that the best interests of the child may be considered in the context of applications for permanent residence on humanitarian and compassionate grounds and certain decisions taken by the Immigration Appeals Division.

--B. The federal government does not provide funding or other support to NGO's for service to victims. Services and

assistance for crime victims are normally a provincial matter. Victims of trafficking are eligible to apply for assistance from victims' assistance funds maintained by the provincial governments. Many victims are eligible for refugee status, but this presents a problem because traffickers are aware of and can exploit this fact.

--C. Victims of trafficking may be detained, fined and deported. This is a source of frustration for federal and provincial authorities who need to obtain the assistance of victims in prosecuting traffickers. Many police and immigration officers view foreign prostitutes brought into Canada by traffickers as illegal immigrants and petty criminals, and not as victims. This attitude is slowly beginning to change, but will require more training and education.

--D. The government sometimes encourages victims to assist in the investigation and prosecution of trafficking, but this is a difficult task. Victims often come from countries where the police are corrupt and dangerous and may even be part of the trafficking network. In addition, victims may not speak English or French or understand their rights or what the police want from them. Victims are therefore often reluctant to cooperate with the police in a prosecution.

A victim who is a material witness against a trafficker is permitted to obtain a humanitarian and compassionate visa to remain in Canada, which would entitle him or her to work. Under Canada's Criminal Code and victims' compensation programs at different jurisdictional levels, victims of trafficking can obtain damages for injuries suffered. In addition, the provincial governments of Alberta and Ontario recently enacted legislation giving those provinces the power to sue pimps and other sexual exploiters of children in order to recover the cost of treating their victims.

--E. Protection for trafficking victims is available, though it is a new concept. Such protection is needed, as motorcycle gangs and organized crime groups that frequently resort to violence and intimidation are heavily involved in human trafficking. Many law enforcement officers do not view foreign prostitutes or illegal workers as victims of traffickers, and do not understand that these persons often require additional protection from organized crime.

--F. Government officials do not receive specialized training for providing assistance to victims of trafficking.

--G. As there are few if any Canadian victims of trafficking repatriated to Canada, there is no government program to provide assistance to such persons.

--H. The following NGO's work with trafficking victims in Canada:

- The Coalition Against Trafficking in Women (Vancouver, BC)
- The Global Alliance Against Trafficking in Women (Victoria, BC)
- Philippine Women Center (Vancouver, BC)
- Kid Friendly Society of British Society (West Vancouver, BC)
- Multicultural History Society of Ontario (Toronto, ON)
- Toronto Network Against Trafficking in Women (Toronto, ON)
- Metro Toronto Chinese and Southeast Asian Legal Clinic, (Toronto, ON)
- Save the Children Canada (Vancouver, BC and Toronto, ON)
- Kelowna Women's Resource Center Society (Kelowna, BC)
- Prostitution Alternatives Counseling and Education Society (Vancouver, BC)
- Federation Des Femmes Du Quebec (Montreal, QC)
- Alberta Association of Sexual Assault Centers (Calgary, AB)
- Prostitutes Empowerment, Education, and Resource Society, (Victoria, BC)
- Saskatoon Communities for Children Inc. (Saskatoon, SK)
- Passages Women's Shelter (Montreal, QC)
- Migrant Agricultural Workers Support Centre (Leamington, ON)

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